



Ninety-Ninth Legislature - First Session - 2005
Introducer's Statement of Intent
LB 119

Chairperson: Mick Mines
Committee: Banking, Commerce and Insurance
Date of Hearing: January 18, 2005

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 119 was introduced by the Banking, Commerce and Insurance Committee, at the request of the Nebraska Department of Insurance, and would do the following:

- (1) The bill would grant the Director of Insurance the authority for fining and suspension of Burial Pre-Need Act licensees, rather than mere revocation of licensure, thereby increasing the director's alternatives for resolving administrative violations. The bill would double the fees paid by licensees under the Act. (Sections 12-1108, 12-1110, 12-1115, and 12-1116.) (Sections 1 to 4 of the bill.)
- (2) The bill would recodify the credit for reinsurance statutes. These statutes set the standards by which the Department of Insurance evaluates the impact of reinsurance on an insurer's solvency. No substantive change is intended, but rather a reorganization of these statutes to follow the order set in National Association of Insurance Commissioners model act provisions. (Sections 44-401, 44-409, 44-417, and 44-5508.) (Sections 5, 7, 8, 23, and new 31 to 36 of the bill.)
- (3) The bill would explicitly set forth the authority of an insurer to guaranty the value of assets held in separate accounts. (Section 44-402.01.) (Section 6 of the bill.)
- (4) The bill would specify that the mandated benefits for tempromandibular disorder only apply to coverage for tempromandiublar disorder. A literal reading of the current statute would allow coverage for other related coverages to be limited to \$2500. (Section 44-789.) (Section 9 of the bill.)
- (5) The bill would reform the current Nebraska breast reconstruction mandate to comply with federal law, the Women's Health and Cancer Rights Act of 1998, by extending the mandate to individual health plans. Additionally, the bill would specify which types of plans are not subject to this mandate. (Section 44-797.) (Section 10 of the bill.)

- (6) The bill would change the filing date for Form B holding company statements from March 1 to May 1. (Sections 44-2131 and 44-2132 of the Insurance Holding Company System Act.) (Sections 11 and 12 of the bill.)
- (7) The bill would confirm the authority of the Director of Insurance as receiver under the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act to sell the licenses held by an insolvent insurer to maximize the value of the insurer's assets in the event of insolvency. This authority is explicit in the case of insurer liquidation, but is implicit in case of rehabilitation. The bill would adopt clear procedures and standards for the court when considering requests from the rehabilitator to approve such transactions. (Section 44-4814 of the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act.) (Section 13 of the bill.)
- (8) The bill would adopt standards to allow insurers to use broker-dealers to hold securities owned by domestic insurance companies, thereby authorizing domestic insurers to use modern systems for holding and transferring securities without taking physical delivery of securities certificates. (Sections 44-5103 and 44-5109 of the Insurers Investment Act.) (Sections 14 and 15 of the bill.)
- (9) The bill would grant Nebraska domiciled insurers the same ability to engage in real estate lending as insurers who are domiciled in many other states by increasing the permitted loan to value ratio for insurers investing in mortgages from seventy-five percent to eighty percent, allowing insurers to carry second mortgages when the insurer also holds the first mortgage and the aggregate loan to value ratio does not exceed 80 percent, and permitting investment in mezzanine real estate loans, which are made by insurers to borrowers on the security of a debt obligation that is not a security that is secured by a pledge of a direct or indirect equity interest in an entity that owns real estate. The bill would correct a typographical error: a reference to "expired" portions of long term leases should read "unexpired". The bill would add replication transactions to the hedging and income-generation derivative transactions permitted under current law. (Sections 44-5143, 44-5144, 44-5149, 44-5153, and 44-5154.) (Sections 16 to 20 of the bill.)
- (10) The bill would confirm that the Utilization Review Act does not apply to automobile medical payments coverage, uninsured motorist coverage, underinsured motorist coverage, and bodily injury liability coverage. (Section 44-5418 of the Utilization Review Act.) (Section 21 of the bill.)
- (11) The bill would remove the requirement in the Surplus Lines Insurance Act that licensees maintain an office in this state, as this is no longer allowed pursuant to the federal Gramm-Leach-Bliley Act. (Section 44-5505 of Surplus Lines Insurance Act.) (Section 22 of the bill.)
- (12) The bill would grant Nebraska domiciled mutual holding companies the same authority to engage in merger and acquisitions as insurers or as mutual holding companies that are domiciled in several other states by granting clearer authority to acquire stock companies, and merge with other mutual holding companies. (Sections 44-6122 and 44-6125 of the

Mutual Insurance Holding Company Act.) (Sections 24 and 25 and new section 26 of the bill.)

- (13) The bill would change the process and standards under which the Department of Insurance regulates property and casualty insurance rates and forms for policies sold to personal lines consumers, such as homeowners and automobile insurance, from a “prior approval” process, under which the rates cannot be charged until after they are approved, to a “file and use” process under which the rates can be charged as soon as they are filed with the department. The bill would also specify that workers’ compensation rates would be filed by insurers with the department on a “file and use” rather than a “prior approval” basis. Additionally the bill would provide that farm and ranch lines rates and forms be filed by insurers with the department on a “file and use” rather than a “prior approval” basis. Lastly the bill would specify that for insurance subject to file and use filing, the existing statutory authority allowing insurers to increase or decrease premiums on individual risks up to forty percent would not extend to personal lines risks and farm and ranch risks, essentially extending this rate flexibility to workers’ compensation. (Sections 44-7506, 44-7508.01, 44-7509, and 44-7511 of the Property and Casualty Insurance Rate and Form Act.) (Sections 27 to 30 of the bill)
- (14) The bill would adopt the Interstate Insurance Product Regulation Compact. If adopted into statute, Nebraska would join the National Association of Insurance Commissioners Interstate Insurance Product Regulation Compact (“Commission”). Made up of the insurance commissioners of the adopting states, the Commission would adopt and apply uniform standards to life, annuity, disability, and long-term care policy forms and advertisement as well as long-term care and disability premium rates, and as well as any product lines added later. Nebraska could opt out of a particular Uniform Standard via statute or regulation if the Uniform Standard does not provide reasonable protection. A company could submit a filing either to the Commission or to the director, with the Nebraska statutes being applied in the latter situation. Nebraska would continue to be responsible for ongoing market regulation. The Commission will become effective after 26 states have joined the Commission, or states have joined comprising 40 percent of the premium volume for the product lines involved. (New sections 37 and 38 of the bill.)
- (15) The bill would specify that Nebraska law applies to certificates issued by out-of-state benefit trusts that are domiciled in states which specify that their insurance laws do not apply to out of state certificate holders. (New section 39 of the bill.)
- (16) The bill would require actuarial opinions for property and casualty insurers to be filed and would require that supporting documentation be available for filing upon request. The bill would establish which documentation is public and which is private. Specifically, the actuarial opinions would be public and the underlying documentation would be private, but certain sharing of private documents would be allowed. (New sections 40 to 42 of the bill.)
- (17) The bill would grant the Director of Insurance rulemaking authority over the workers’ compensation assigned risk pool. (Section 48-146.01.) (Section 43 of the bill.)

Principal Introducer:

**Mick Mines, Chairperson
Committee on Banking, Commerce and Insurance**